



3732  
#5

PATENT  
Customer No. 22,852  
Attorney Docket No. 7883.0111

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
Robert Edward KOHLER et al. )  
 ) Group Art Unit: 3738  
Application No.: 10/052,156 )  
 ) Examiner: Unknown  
Filed: January 16, 2002 )  
 )  
For: ENCASED IMPLANT AND METHODS )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RECEIVED  
DEC 09 2003  
TECHNOLOGY CENTER H3700

**REVOCATION OF ORIGINAL POWER OF ATTORNEY,  
GRANT OF NEW POWER OF ATTORNEY, AND CHANGE OF ADDRESS**

The undersigned, a representative authorized to sign on behalf of the assignee owning all of the interest in this application, hereby revokes all previous powers of attorney or authorization of agent granted in this application before the date of execution hereof. The undersigned verifies that Percardia, Inc. is the assignee of the entire right, title, and interest in the patent application identified above by virtue of the Submission Under 37 C.F.R. §3.73(b) submitted herewith.

The undersigned hereby revokes the previous Power of Attorney in the above action to Merchant & Gould P.C. and hereby grants their power of attorney to FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold,

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilley, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewris, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; Roger D. Taylor, Reg. No. 28,992; John C. Paul, Reg. No. 30,413; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanhon Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No.

32,045; Joann M. Neth, Reg. No. 36,363; Gerson S. Panitch, Reg. No. 33,751; Cheri M. Taylor, Reg. No. 33,216; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33, 921; James B. Monroe, Reg. No. 33,971; Doris Johnson Hines, Reg. No. 34,629; Lori Ann Johnson, Reg. No. 34,498; R. Bruce Bower, Reg. No. 37,099; John Rissman, Reg. No. 33,764; Therese A. Hendricks, Reg. No. 30,389; Leslie I. Bookoff, Reg. No. 38,084; Michele C. Bosch, Reg. No. 40,524; Michael J. Flibbert, Reg. No. 33,234; Scott A. Herbst, Reg. No. 35,189; Leslie A. McDonell, Reg. No. 34,872; Thalia V. Warnement, Reg. No. 39,064; Ronald A. Bleeker, Reg. No. 27,773; Kathleen A. Daley, Reg. No. 36,116; C. Gregory Gramenopoulos, Reg. No. 36,532; Anthony M. Gutowski, Reg. No. 38,742; Yitai Hu, Reg. No. 40,653; Lionel M. Lavenue; Reg. No. 46,859; Christine E. Lehman, Reg. No. 38,535; and Patrick J. Coyne, Reg. No. 31,821; both jointly and separately as their attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and to receive the Letters Patent.

In addition, effective immediately, please make the following changes concerning the customer number and all future correspondence with respect to the above-identified application:

Customer No. 22,852  
Attorney Docket No. 7883.0111  
Address: FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I Street, N.W.  
Washington, D.C. 20005-3315  
Telephone: (202) 408-4000  
Facsimile (202) 408-4400

Dated: 12/1/03

By: Nancy M. Briefs  
Nancy M. Briefs  
President & CEO  
Percardia, Inc.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
[www.finnegan.com](http://www.finnegan.com)



PATENT  
Customer No. 22,852  
Attorney Docket No. 7883.0111

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
Robert Edward KOHLER et al. )  
 ) Group Art Unit: 3738  
Application No.: 10/052,156 )  
 ) Examiner: Unknown  
Filed: January 16, 2002 )  
 )  
For: ENCASED IMPLANT AND METHODS )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RECEIVED  
DEC 09 2003  
TECHNOLOGY CENTER H3700

**SUBMISSION UNDER 37 C.F.R. §3.73(b)**

Percardia Inc., a corporation of Delaware, is the assignee of the entire right, title and interest in the patent application identified above by virtue of chain of title from the inventor, of the patent application identified above, to Percardia, Inc. as shown below:

1. From: Robert Edward Kohler and David H. Mowry

To: HeartStent Corporation

A copy of the document is attached. A copy of the document was submitted for recordation in the U.S. Patent and Trademark Office (PTO) on May 8, 2002. A copy of a receipt postcard with a date-stamp acknowledging receipt of the document for recordation by the PTO on May 17, 2002 is also attached.

2. From: HeartStent Corporation

To: Percardia, Inc.

A copy of the document is attached. A copy of the document is also submitted herewith for recordation in the U.S. Patent and Trademark Office.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

Name: Nancy Briefs

Title: President & CEO

Signature:



Date:

12/1/03

Address:

Percardia, Inc.  
10 Al Paul Lane  
Suite 202  
Merrimack, NH 03054

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER <sup>LLP</sup>

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: MOWRY et al.  
For: ENCASED IMPLANT AND METHODS  
Docket No.: 11587.60US01  
Filed: January 16, 2002

Serial No.: 10/052,156  
Due Date: April 14, 2002 (extended to

May 14, 2002)

Date Mailed: May 8, 2002

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Notice to File Missing Parts of NonProvisional Application - Part 2
- ☒ Small entity status is claimed pursuant to 37 C.F.R. 1.27
- ☒ Signed Combined Declaration and Power of Attorney
- ☒ Request for Extension of Time for one month(s) and fee of \$55.00
- ☒ Check(s) in the amount of \$160.00 for \$65.00 missing parts; \$40.00 assignment recordation; \$55.00 one month extension
- ☒ Other: Assignment and Recordation Cover Sheet
- ☒ Return postcard

Patent

JRD:st

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: MOWRY et al.  
For: ENCASED IMPLANT AND METHODS  
Docket No.: 11587.60US01  
Filed: January 16, 2002

Serial No.: 10/052,156  
Due Date: April 14, 2002 (extended to

May 14, 2002)

Date Mailed: May 8, 2002

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Notice to File Missing Parts of NonProvisional Application - Part 2
- ☒ Small entity status is claimed pursuant to 37 C.F.R. 1.27
- ☒ Signed Combined Declaration and Power of Attorney
- ☒ Request for Extension of Time for one month(s) and fee of \$55.00
- ☒ Check(s) in the amount of \$160.00 for \$65.00 missing parts; \$40.00 assignment recordation; \$55.00 one month extension
- ☒ Other: Assignment and Recordation Cover Sheet
- ☒ Return postcard

Patent

JRD:st



## ASSIGNMENT

WHEREAS, we, Dave Mowry, residing at 1544 Beachcomber Boulevard, Waconia, Mn. 55387, and Robert Kohler, residing at 9618 53rd Street North, Lake Elmo, Mn. 55111 made certain new and useful inventions and improvements for which we filed an application for Letters Patent of the United States on January 16, 2002, Serial No. 10/052,156, Attorney Docket No. 11587.60US01 which is entitled ENCASED IMPLANT AND METHODS.

AND WHEREAS, HeartStent Corporation, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, and having an office and place of business at 7145 Boone Avenue North, Suite 150, Brooklyn Park, Minnesota 55428 (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

NOW THEREFORE, to all whom it may concern, be it known that for and in consideration of the sum of One Dollar and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, we have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the Assignee, its successors and assigns.

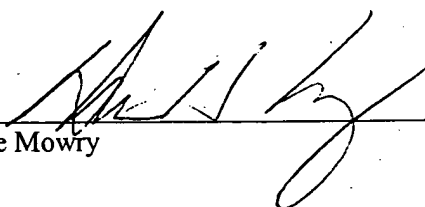
AND, for the consideration aforesaid, we do hereby agree that we and our executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to us relating to said improvements and



the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

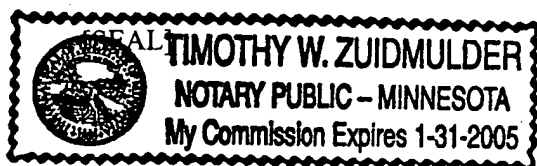
AND, furthermore we covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us and that full right to convey the same as herein expressed is possessed by us.

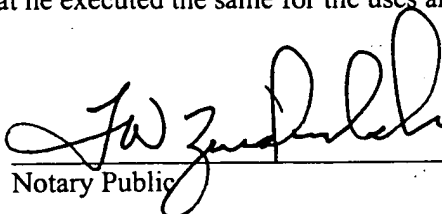
April IN TESTIMONY WHEREOF, I have hereunto set my hand this 26<sup>th</sup> day of April, 2002.

  
\_\_\_\_\_  
Dave Mowry

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN ) ss.

On this 26<sup>th</sup> day of April, 2002, before me personally appeared Dave Mowry to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.



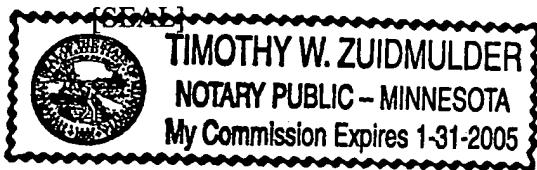
  
\_\_\_\_\_  
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26<sup>th</sup> day of April, 2002.

Robert Kohler  
Robert Kohler

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN ) ss.

On this 26<sup>th</sup> day of April, 2002, before me personally appeared Robert Kohler to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.



Timothy W. Zuidmulder  
Notary Public

ASSIGNMENT

WHEREAS, HeartStent Corporation, a Minnesota corporation ("HeartStent"), owns, by assignment, all right, title, and interest in the patents and patent applications listed on the Patent Schedule attached to this Assignment (the "Patents and Patent Applications") and any inventions disclosed and/or claimed therein (the "Inventions"); and

Percardia Inc., a Delaware corporation ("Percardia"), desires to own HeartStent's entire right, title, and interest in and to the Patents and Patent Applications and the Inventions, in all countries throughout the world.

NOW THEREFORE, be it known that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HeartStent hereby sells, assigns, transfers, and sets over to Percardia, its lawful successors and assigns, HeartStent's entire right, title, and interest in and to the Patents and Patent Applications and the Inventions; any other U.S. and foreign patents and patent applications directed to any of the Inventions, including without limitation any divisional, continuation, and continuation-in-part; all reissues, reexaminations, renewals, extensions, and foreign equivalents of any of the foregoing; and all rights to claim priority on the basis of any of the above. The parties agree that the rights conveyed hereunder are to be held and enjoyed by Percardia, its successors and assigns, as fully as the same would have been held and enjoyed by HeartStent had this assignment not been made, and HeartStent hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States and any official of any foreign country whose duty it is to issue patents on

applications as described above, to issue all patents for any of the Inventions to Percardia, its successors and assigns, in accordance with the terms of this Assignment.

AND, HeartStent HEREBY further covenants that it has the full right to convey the interest assigned by this Assignment, and it has not executed and will not execute any agreement in conflict with this Assignment.

---

---

Execution Copy

IN TESTIMONY WHEREOF, each party has caused its authorized representative

to execute this Assignment.

HeartStent Corporation

By

Name: DAVID H. MOWERY  
Title: PRESIDENT, C.O.O.

Date

Percardia, Inc.

By

Name:

Title:

Date

Execution Copy

IN TESTIMONY WHEREOF, each party has caused its authorized representative  
to execute this Assignment.

HeartStent Corporation

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Percardia, Inc.

By Nancy Brief  
Name: Nancy Brief  
Title: President & CEO  
Date: 10-24-03

**PATENT SCHEDULE**U.S. Patents and Patent Applications

Appln. Serial No.	Patent No.	Filing Date	Title
08/689,773	5,755,682	August 13, 1996	Method and apparatus for performing coronary artery bypass surgery
09/915,539	5,908,029	August 15, 1997	Coronary artery bypass with reverse flow
08/882,397	5,944,019	June 25, 1997	Closed chest coronary bypass
08/944,313	5,984,956	October 6, 1997	Transmyocardial implant
09/063,160	6,029,672	April 20, 1998	Transmyocardial implant procedure and tools
09/135,879	6,053,942	August 18, 1998	Transmyocardial implant with coronary stent
09/063,161	6,076,529	April 20, 1998	Transmyocardial implant with inserted vessel
09/055,488	6,093,166	April 3, 1998	Coronary bypass implant
09/246,596	6,102,941	February 8, 1999	Transmyocardial implant with coronary ingrowth
09/373,790	6,113,630	August 13, 1999	Transmyocardial implant with minimized coronary insertion
09/094,136	6,113,823	June 9, 1998	Pyrolytic carbon transmyocardial implant
09/054,815	6,123,682	April 3, 1998	Closed chest coronary bypass
09/145,843	6,139,541	September 2, 1998	Guide for transmyocardial implant
09/311,003	6,182,668	May 13, 1999	Transmyocardial implant with induced tissue flap
09/232,272	6,193,726	January 15, 1999	Insertion tool for transmyocardial implant
09/152,586	6,197,050	September 14, 1998	Transmyocardial implant with compliance collar
09/009,674	6,214,041	January 20, 1998	Transmyocardial implant with septal perfusion
09/179,711	6,223,752	October 27, 1998	Transmyocardial implant procedure
09/433,454	6,237,607	November 4, 1999	Transmyocardial implant procedure
09/009,400	6,250,305	January 20, 1998	Method for using a flexible transmyocardial implant
09/548,173	6,350,248	April 13, 2000	Expandable myocardial implant
09/548,175	6,361,519	April 13, 2000	Mesh tip myocardial implant
09/141,284	6,406,488	August 27, 1998	Healing transmyocardial implant
09/304,650	6,406,491	May 4, 1999	Compliant transmyocardial implant
09/304,730	6,409,697	May 4, 1999	Transmyocardial implant with forward flow bias

Appln. Serial No.	Patent No.	Filing Date	Title
09/793,318	6,454,760	February 26, 2001	Insertion tool for transmyocardial implant
09/326,819	6,454,794	June 7, 1999	Coronary bypass implant
09/686,689	6,582,463	October 11, 2000	Autoanastomosis
10/043,684		January 9, 2002	Coronary Bypass Implant
10/076,735		February 15, 2002	Transmyocardial Implant With Improved Flow
10/245,556		September 17, 2002	Coronary Bypass Implant
Cont. of 10/095,165		August 11, 2003	Healing Transmyocardial Implant
Cont. of 10/043,684		October 10, 2003	Coronary Bypass Implant
10/155,926		May 23, 2002	Transmyocardial Implant With Flow Reduction
09/975,746		October 10, 2001	Stabilized Transmyocardial Implant
10/439,344		May 15, 2003	Autoanastomosis
09/975,740		October 10, 2001	Flexible Transmyocardial Implant
09/931,655		August 16, 2001	Interventional Diagnostic Catheter and a Method for Using a Catheter To Access Artificial Cardiac Shunts
09/768,930		January 24, 2001	Autoanastomosis Device And Connection Technique
09/971,354		October 4, 2001	Multi-Lumen Implant
09/769,746		January 25, 2001	Intravascular Ventriculocoronary Artery Bypass Delivery Modalities
10/075,518		February 13, 2002	Cardiac Implant and Methods
10/023,314		December 14, 2001	Interventional Catheter With Three Dimensional Articulation
09/972,779		October 5, 2001	Transmyocardial Implant With Reinforcing Wrap
09/976,258		October 11, 2001	Medical Device With Enhanced Guide Capabilities
10/238,574		September 9, 2002	Device for Placing Transmyocardial Implant
10/153,341		May 21, 2002	Transmyocardial Implant Delivery System
10/052,156		January 16, 2002	Encased Implant and Methods
10/150,621		May 17, 2002	Transmyocardial Implant With Natural Vessel Graft and Method



Foreign Patents and Patent Applications

Country	Appln. Serial No.	Patent No.	Filing Date	Title
Australia	4057397	716771	August 12, 1997	Coronary Bypass Implant
Belgium	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Switzerland	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Germany	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Europe	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
France	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Great Britain	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Great Britain	97171169	2316322	August 12, 1997	Coronary Bypass Implant
Ireland	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Japan	9216550	2886847	August 11, 1997	Coronary Bypass Implant
Norway	990688	990688	August 12, 1997	Coronary Bypass Implant
New Zealand	334541	334541	August 12, 1997	Coronary Bypass Implant
Portugal	97938185.2	959815	August 12, 1997	Coronary Bypass Implant
Canada	2262623		August 12, 1997	Coronary Bypass Implant
Europe	02014488.7		August 12, 1997	Method and Apparatus for Performing Coronary Artery Bypass Surgery
Germany	199839255		November 10, 1999	Transmyocardial Implant With Coronary Ingrowth
Europe	98942170.6		August 20, 1998	Transmyocardial Implant
Europe	98965487.6		December 22, 1998	Transmyocardial Implant With Septal Perfusion
Canada	2341521		August 24, 1999	Transmyocardial Implant
Europe	99943852.6		August 24, 1999	Transmyocardial Implant
Japan	00567153		August 24, 1999	Transmyocardial Implant
Germany	100844502		March 27, 2000	Compliant Transmyocardial Implant
Japan	00614922		March 27, 2000	Compliant Transmyocardial Implant
PCT	PCT/US02/26226		August 15, 2002	Interventional Diagnostic Catheter and a Method for Using a Catheter to Access Artificial Cardiac Shunts
PCT	PCT/US02/31659		October 2, 2002	Transmyocardial Implant With Reinforcing Wrap